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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,162	03/23/2004	Hideyuki Nishida	00862.023509.	2175
5514 7590 12/09/2008 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
EXAMINER				
MURALIDAR, RICHARD V				
ART UNIT		PAPER NUMBER		
2838				
MAIL DATE		DELIVERY MODE		
12/09/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/806,162

Applicant(s)

NISHIDA, HIDEYUKI

Examiner

RICHARD V. MURALIDAR

Art Unit

2838

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 5/15/2008
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hall [U.S. 6034506].

With respect to claim 1 (Currently Amended), Hall discloses a rechargeable battery [Fig. 4, 11] which includes a plurality of connected cells [col. 3 lines 35-44], comprising: a pair of first electrodes configured to extract electric power from the battery [col. 3 lines 49-55; Fig. 3]; and a pair of second electrodes which is different from said pair of first electrodes and is configured to charge and discharge each of said plurality of cells individually [col. 3 lines 5-12; Fig. 3]; and a switch [Fig. 3, Sb] configured to series connect said plurality of cells when the battery is not attached [Fig. 3, with SX1 open the battery is not electrically attached to DC-DC supply 12, and is in the “discharge configuration” shown] to a charger [Fig. 2, 15] such that electric power can be extracted from the series-connected plurality of cells through said pair of first electrodes [Fig. 3, series discharge configuration; col. 3 lines 62-67], and configured to electrically separate said plurality of cells from one another when the battery is attached to the charger [Fig. 3, with SX1 closed the battery is electrically attached to DC-DC supply 12 and is in the “charge configuration” shown] such that each of said plurality of cells can

be charged individually by the charger through said pair of second electrodes [Fig. 3, "charge configuration"; col. 3 lines 5-12; col. 4 lines 57-62].

With respect to claim 12 (Previously Presented), Hall discloses that the battery is a battery pack in which said plurality of cells are assembled [Fig. 3, 11; col. 4 lines 47-60].

Response to Arguments

Applicant's arguments filed 8/15/2008 have been fully considered but they are not persuasive. Applicant has commented that Hall does not disclose a first pair of electrodes which is different from the second pair of electrodes. The examiner notes only three electrodes are required to meet this language and not four as is being suggestively argued. The first pair of electrodes can certainly have an electrode in common with the second pair of electrodes and still be considered two different *pairs* of electrodes. In Hall's Fig. 3, **a first pair** can be the uppermost electrode above B1 and the lowermost electrode of B10; while **a second pair** can be the uppermost electrode above B1 and the middle electrode before switch SM; or the node between DC-DC PS1 and each of the Sc switch contacts. Note that the uppermost electrode above B1 is involved in both charging and discharging operations. This is only one interpretation of "electrode pairs" as recited that could conceivably meet the limitation, others may be available.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RICHARD V. MURALIDAR whose telephone number is (571)272-8933. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Akm E. Ullah can be reached on 571-272-2361. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Akm Enayet Ullah/
Supervisory Patent Examiner, Art
Unit 2838

/Richard V. Muralidar/
Examiner, GAU 2838